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Attorney for Claimant
Antonio Lomas

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$45,000.00 IN U.S. CURRENCY,

TWO RABOBANK CASHIER'S
CHECKS AT A TOTAL VALUE
OF \$31,000.00,

ONE WELLS FARGO CHECK
#028203098 IN THE AMOUNT
OF \$17,000.00,

ONE RABOBANK CHECK
#012000742 IN THE AMOUNT
OF \$8,000.00,

ONE RABOBANK CHECK
#012000743 IN THE AMOUNT
OF \$8,000.00,

\$8,000.00 IN U.S. CURRENCY,

Defendants.

Case No. 08-CV-0862IEG(CAB)

**ANSWER TO COMPLAINT FOR
FORFEITURE (ANTONIO LOMAS)**

COMES NOW the Claimant, ANTONIO LOMAS, and in answer to Plaintiff's Complaint for Forfeiture, hereby responds, alleges, and otherwise pleads as follows:

1. Claimant denies each and every allegation set forth in Paragraph 1. of the Complaint for Forfeiture in the conjunctive as well as the disjunctive.

1 32. Claimant denies each and every allegation set forth in Paragraph 32. of the
2 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

3 33. Answering Paragraph 33. of the Complaint, Claimant has no information
4 or belief sufficient to enable him to answer the allegations contained therein, and basing his denial on
5 that ground, denies each and every allegation contained therein in the conjunctive as well as the
6 disjunctive.

7 **AFFIRMATIVE DEFENSE(S)**

8 **FIRST AFFIRMATIVE DEFENSE**

9 For a further and separate answer to the Complaint, Claimant alleges the subject Complaint as
10 pled fails to state facts sufficient to constitute a cause of action against the defendant properties.

11 **SECOND AFFIRMATIVE DEFENSE**

12 For a further and separate answer to the Complaint, Claimant alleges plaintiff lacked probable
13 cause for the institution of the forfeiture action.

14 **THIRD AFFIRMATIVE DEFENSE**

15 For a further and separate answer to the Complaint, Claimant alleges that the forfeiture in this
16 case is disproportionate, and is a violation of the Eighth Amendment to the United States
17 Constitution.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 For a further and separate answer to the Complaint, Claimant allege Claimant's ownership
20 interest (legal and/or beneficial) is not forfeitable in the property by reason that any and all acts or
21 omissions alleged as the basis for forfeiture have been committed or omitted without the knowledge
22 or consent of Claimant (i.e. Claimant was and is what is commonly referred to as an innocent owner).

23 **FIFTH AFFIRMATIVE DEFENSE**

24 For a further and separate answer to the Complaint, Claimant alleges that the searches which
25 led to the seizure of the defendant currency violated the Fourth Amendment to the United States
26 Constitution.

27 WHEREFORE, claimant prays for judgment as follows:

- 28 1. That the Complaint be dismissed with prejudice;

2. That the subject properties be returned to Claimant;
3. For reasonable attorney's fees herein and costs of suit; and
4. For such other and further relief as the Court may deem just.

DATED: June 26, 2008

/s/ Richard M. Barnett
RICHARD M. BARNETT, ESQ.
rmb-atty@pacbell.net

Attorney for Claimant
ANTONIO LOMAS

CERTIFICATE OF SERVICE

I, RICHARD M. BARNETT, do hereby state:

That I am a citizen of the United States, over the age of eighteen years, and not a party to the within action.

That my business address is 105 West F Street, 4th Floor, San Diego, California.

That on June 20, 2008, I have caused service of Answer to Complaint for Forfeiture (Antonio Lopez) on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies said party:

1. David McNees, Special Assistant U.S. Attorney, Attorney for Plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 26th day of June, 2008, at San Diego, California.

/s/ Richard M. Barnett
RICHARD M. BARNETT